

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD CHADBOURNE

Appeal No. 2000-2262
Application No. 08/990,996

ON BRIEF

Before HAIRSTON, RUGGIERO, and BARRY, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the Examiner's rejection of claims 11, 13, 16, 19, 21, and 22. Claims 15 and 18 have been canceled. Claims 1-10, 12, and 20 have been allowed, and claims 14 and 17 have been indicated as being allowable subject to being rewritten in independent form to include all of the limitations of the base claims and any intervening claims.

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The disclosed invention relates to an electrical wedge connector having a wedge and a shell, the shell being sized and shaped to receive the wedge and an electrical conductor. A curved wall of the shell has a conductor piercing tab member which extends inwardly from the curved wall and includes a set of piercing teeth at an end edge.

Claim 11 is illustrative of the invention and reads as follows:

11. In a wedge connector shell, the shell comprising a one-piece sheet metal member forming a receiving area for a wedge and an electrical cable, wherein the improvement comprises:

the metal member having an insulation piercing section extending inward into the receiving area which is sized and shaped to pierce through an electrical insulation cover of the cable and make direct electrical contact with an electrical conductor of the cable, wherein the insulation piercing section comprises a tab of the sheet metal member which is folded to project inward generally perpendicular to a centerline axis of the shell, wherein the tab has teeth at a free end thereof.

The Examiner relies on the following prior art:

Gerhard	3,811,105	May 14, 1974
Chadbourn et al. (Chadbourn)	5,679,031	Oct. 21, 1997

Claims 11, 13, 16, 19, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chadbourn in view of Gerhard.

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Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the Briefs¹ and Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner, and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellant's arguments set forth in the Briefs along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 11, 13, 16, 19, 21, and 22. Accordingly, we reverse.

¹ The original Appeal Brief was filed September 29, 1999 (Paper No. 11). A Supplemental Appeal Brief, which indicated that the arguments in the originally filed brief were being repeated, was filed February 7, 2000 (Paper No. 14) in response to a further Office action dated October 26, 1999 (Paper No. 12). In response to the Examiner's Answer dated March 1, 2000 (Paper No. 15), a Reply Brief was filed May 1, 2000 (Paper No. 16) which was acknowledged and entered by the Examiner in the communication dated May 12, 2000 (Paper No. 17).

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With respect to independent claims 11 and 21, the Examiner, as the basis for the obviousness rejection, proposes to modify the electrical wedge connector disclosure of Chadbourne. According to the Examiner (page 3 of the Office action dated October, 26, 1999, Paper No. 12, referenced at page 3 of the Answer), Chadbourne discloses the claimed invention except that the piercing member 56, which the Examiner likens to Appellant's claimed folded inward tab member, does not have a set of multiple teeth. To address this deficiency, the Examiner turns to Gerhard which, in the Examiner's view (id.), discloses a wire connector shell " . . . with multiple teeth in a semicircular pattern." In the Examiner's analysis (id.), the skilled artisan would have been motivated and found it obvious to provide the piercing tab member of Chadbourne with multiple teeth " . . . so as to have better electrical contact between the shell and the conductor of the cable."

In response, Appellant asserts that the Examiner has failed to set forth a prima facie case of obviousness since proper motivation for one of ordinary skill to make the Examiner's proposed combination has not been established. Upon careful review of the applied prior art, we are in agreement with Appellant's stated position in the Briefs. The mere fact that

the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992).

As pointed out by Appellant (Reply Brief, page 1), the piercing members 56 in Chadbourne are formed by stamping the edge of a hole into a receiving area. There is no indication from the Examiner as to how and in what manner the skilled artisan might take the piercing member disclosure of Gerhard, which involves longitudinally extending multiple teeth, and adapt it to the stamped out piercing member of Chadbourne to form a set of multiple teeth. Further, as asserted by Appellant (id., at page 2), Chadbourne explicitly teaches against (column 3, lines 32-34) any further deforming or machining of the stamped out piercing member, which would be necessary to form the multiple teeth according to the Examiner's proposed modification, in order to maintain the sharpness of the piercing member tip.

Further, we find no evidence forthcoming from the Examiner that would support the contention (Answer, pages 5 and 6) that a skilled artisan would have found it obvious to replace the single tooth multiple piercing tabs of Chadbourne with a single tab

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having multiple teeth to economize the required device manufacturing operations. The Examiner must not only make requisite findings, based on the evidence of record, but must also explain the reasoning by which the findings are deemed to support the conclusion of obviousness. See In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002). Given the lack of supporting evidence presented by the Examiner, it is our opinion that any suggestion to modify the single tooth piercing connector tabs of Chadbourne to provide tabs with multiple teeth could only come from Appellant's own disclosure, and not from any disclosure in the prior art references themselves.

In view of the above discussion, since all of the claim limitations are not taught or suggested by the applied prior art, it is our opinion that the Examiner has not established a prima facie case of obviousness with respect to appealed independent claims 11 and 21. Accordingly, the Examiner's 35 U.S.C. § 103(a)

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rejection of independent claims 11 and 21, as well as claims 13, 16, 19, and 22 dependent thereon, is not sustained. Therefore, the decision of the Examiner rejecting claims 11, 13, 16, 19, 21, and 22 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
LANCE LEONARD BARRY)	
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JFR:hh

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